

Serial No. 10/627,995

Attorney Docket No. 26L-001

REMARKS

In the foregoing amendments, claims 1, 4, 5 and 8 were currently amended to correct editorial matters and to exclude "a copolymer synthesized from an aliphatic hydroxy acid." Claims 7, 9 and 10 were previously canceled. Claims 11-17 were previously allowed. Accordingly, claims 1-6 and 8 are in the application for consideration by the examiner.

Claims 6 was objected to as being dependent upon a rejected base claim, but indicated as allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. However, applicant respectfully submits that present claim 6 is an independent claim, which stands by itself. Since claim 6 was not rejected in the outstanding Office action, a formal allowance of claim 6 is respectfully requested.

Applicant respectfully requests that the foregoing amendments to the claims be entered under the provisions of 37 C.F.R. §1.116 for the purposes of placing the application in condition for allowance or for the purposes of appeal. Important reasons for entry of the foregoing amendments are that they place the present application in condition for allowance and that they are in response to a newly cited reference against applicant's claims.

The newly added limitation to claims 1, 4, 5 and 8, which excludes a copolymer synthesized from an aliphatic hydroxy acid, may be considered a negative limitation. However, it is respectfully noted that M.P.E.P. § 2173.05(i) reads "So long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. §112, second paragraph." In addition, the specification of this application sufficiently discloses an open-ended listing of the bio-liquid crystal polymer that can exclude a copolymer synthesized from the aliphatic hydroxy acid (e.g., page 12, lines 5-17). For such reasons, applicant respectfully submits that amended claims 1, 4, 5 and 8 that exclude "a copolymer synthesized from an aliphatic hydroxy acid" comply with 35 U.S.C. §112.

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Claims 1-5 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by Jin *et al.* (Macromolecules, Vol. 28, No. 14, pp. 4785-4794). Applicant respectfully submits that claims 1-5 and 8 are patentably distinguishable from the teachings of Jin *et al.* for at least the following reasons.

The teachings of Jin *et al.* propose only a copolymer synthesized by incorporating aliphatic hydroxy acid into aromatic polyesters (e.g., page 4786, the last paragraph). In other words, the teachings of Jin *et al.* necessarily require the incorporation of aliphatic hydroxy acid in the copolymer proposed therein. In contrast thereto, the bio-liquid crystal polymer as recited in amended claims 1, 4, 5 and 8 excludes the incorporation of aliphatic hydroxy acid. The teachings of Jin *et al.* fail to disclose or suggest a polymer excluding the incorporation of aliphatic hydroxy acid, as required in claims 1, 4, 5 and 8 and the claims which depend thereon within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

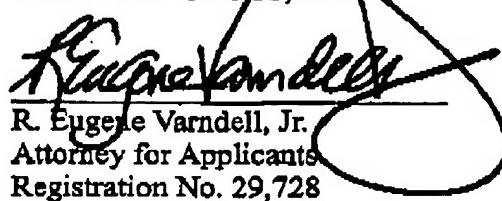
For the foregoing reasons, a formal allowance of all claims 1-5 and 8, together with claims 6 and 11-17, is respectfully requested. The preceding is believed to be a complete and proper response to the Official action mailed September 28, 2005. While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

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In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 50-1147.

Respectfully submitted,
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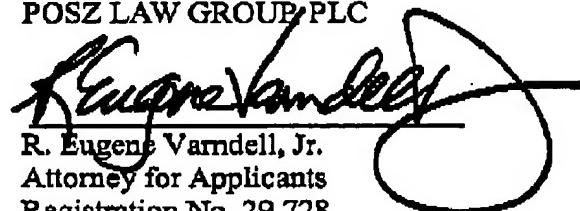
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Certificate of Transmission under 37 CFR §1.8

I hereby certify that this correspondence (Amendment after Final under 37 C.F.R. 1.116, which totals 8 pages including this certificate) is being facsimile transmitted to the U.S. Patent and Trademark Office (facsimile No. 571-273-8300) on December 28, 2005.

Respectfully submitted,
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Applicants: Kaneko et al.	Atty. Dkt.: 26L-001
Serial No.: 10/627,995	Art Unit: 1756
Filed: 7/28/2003	Examiner: Shean Chiu WU
TITLE: BIO-LIQUID CRYSTAL POLYMER AND SHAPED MATERIAL USING SAME	